



INSOLVENCY PROFESSIONAL AGENCY
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IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Life is like a bicycle. To keep your balance, you must keep moving."

➤ **Time-Barred Insolvency plea can be rejected without RP appointment: NCLAT New Delhi**

On 7 August, the New Delhi National Company Law Appellate Tribunal (NCLAT) held that the National Company Law Tribunal (NCLT) can reject a personal guarantor's insolvency application at the threshold if it is ex facie barred by limitation, without first appointing a Resolution Professional (RP) under Section 97 of the Insolvency and Bankruptcy Code, 2016 (IBC).

A Bench of Judicial Member Justice Mohd Faiz Alam Khan with Technical Members Arun Baroka and Indevan Pandey dismissed the appeal filed by Prabhaven Ravjibhai Harkani, personal guarantor of Shubham Ginning Pressing Pvt. Ltd., challenging the Ahmedabad Bench of the NCLT's order rejecting her Section 94 insolvency petition as time barred.

It observed: "appointment of a Resolution Professional is not an essential requirement in every case under section 94. The Adjudicating Authority, where it finds, on the admitted facts and the applicable law, that the application is not maintainable, it can reject an application under Section 94 before appointing the RP. The order cannot be said to be invalid merely because a Resolution Professional was not appointed. The validity of such an order has to be examined in the facts of each case."

Harkani had executed personal guarantees in favour of Bank of Baroda in 2013 and 2015. The guarantees were invoked on 19 September 2016 under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). Recovery proceedings were subsequently initiated before the Debt Recovery Tribunal (DRT), followed by SARFAESI auctions. The auctions were successfully concluded in December 2024. Harkani thereafter filed a fresh petition under Section 94 of the IBC in January 2025, which the NCLT rejected as barred by limitation.

Source: Live Law Biz

Read Full News: [Time-Barred insolvency plea can be rejected without RP appointment: NCLAT New Delhi](#)

➤ **Separate CIRP cannot be initiated for project when developer is already undergoing CIRP: NCLT Bengaluru**

The National Company Law Tribunal (NCLT) at Bengaluru has held that a separate Corporate Insolvency Resolution Process (CIRP) cannot be initiated for a particular real estate project when the developer as a whole is already undergoing CIRP.

The ruling came while dismissing a homebuyer's insolvency plea against Buoyant Technology Constellations Private Limited, who argued that his claim arose exclusively from the Mantri Manyata Energia project.

A coram of Judicial Member Sunil Kumar Aggarwal and Technical Member Radhakrishna Sreepada held that all creditors, including homebuyers, must submit their claims before the Resolution Professional in the ongoing CIRP.

Source: Live Law Biz

Read Full News: [Separate CIRP cannot be initiated for project when developer is already undergoing CIRP: NCLT Bengaluru](#)

➤ **NCLT Jaipur replaces RP in dropbase liquidation, says CIRP beyond 330 days is serious lapse**

The Jaipur National Company Law Tribunal (NCLT) on 17 July ordered liquidation of Dropbase Software Private Limited and replacing Resolution Professional Rajneesh Sharma with Anubha Singh as the Liquidator, citing his failure to adhere to the CIRP timeline.

A Bench of Judicial Member Reeta Kohli and Technical Member Kavita Bhatnagar held that continuing the Corporate Insolvency Resolution Process (CIRP) beyond the statutory period without following the prescribed procedure amounts to a “serious lapse in the professional conduct” of the Resolution Professional (RP).

Source: Live Law Biz

Read Full News: [NCLT Jaipur replaces RP in dropbase liquidation, says CIRP Beyond 330 days is serious lapse](#)



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